



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,589	01/13/2004	Stephan Olivier Van Banning	47161-00043USPT	1772

30223 7590 02/08/2006

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

EXAMINER

ENSEY, BRIAN

ART UNIT	PAPER NUMBER
----------	--------------

2646

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,589

Applicant(s)

VAN BANNING ET AL.

Examiner

Brian Ensey

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 17 and 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/3/04, 7/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, Species 3 shown in Figure 4 in the reply filed on 12/05/05 is acknowledged.

Examiner appreciates clarification of claims drawn to elected species 3 as being claims 14-16 and 18 as discussed in a telephone call with Daniel Nguyen on 12/23/05.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: See Fig. 3, item 318, 312a, 308a and 308c; see Fig. 4, items 432a, 432b and 418; see fig. 5, item 518; see fig. 6, item 612a; see fig. 7, items 612a and 612b. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Urushibata et al. U.S. Patent No. 6,757,403.

Regarding claim 14, Urushibata discloses a receiver for a listening device, comprising: a magnet assembly (31); an armature (11) having a moveable portion (14) and a fixed portion (13); and a coil assembly including a bobbin (21) and a conductive wire (33) wound around said bobbin, said coil assembly being adjacent to said magnet assembly and, together with said magnet assembly, defining a passage through which said moveable portion passes (passage through coil (33) and between magnet assembly (31) and magnet positioning bars (24)), said bobbin including an armature-mounting structure (28), said moveable portion of said armature being substantially centered within said passage in response to said fixed portion being engaged to said armature-mounting structure (See Fig. 10 and col. 6, lines 29-40, and col. 8, lines 13-16).

Regarding claim 16, Urushibata further teaches said armature-mounting structure (28) has a shape that substantially matches a shape of said fixed portion of said armature (See Fig. 10 and col. 8, lines 13-16).

Regarding claim 18, Urushibata further teaches said armature (11) is an E-shaped armature (See Fig. 10 and col. 6, lines 28-30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urushibata et al. in view of Carlson U.S. Patent No. 3,247,991.

Regarding claim 15, Urushibata teaches a receiver as claimed. Urushibata further teaches a first flange (26) forming a first end of an armature-mounting structure and a magnet retainer (28) forming an opposing second end of an armature mounting structure to fixedly stabilize the fixed portion of the E-shaped armature (See Fig. 10 and col. 6, lines 29-40, and col. 8, lines 13-16). Urushibata does not expressly disclose two opposing flanges wherein each opposing edge lying

Art Unit: 2646

in a plane that is substantially perpendicular to a plane of said armature. However, Carlson teaches a planar E-shaped armature wherein the fixed portions (28,30) are retained between the magnet structure (26) at a first end and an anchor (44) at an opposite end that lies in a plane (formed by the case (22) which holds anchor (44)) that is substantially perpendicular to a plane of said armature (See Figs 1 and 2 and col. 3, lines 5-11 and lines 58-70). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide perpendicular support for a planar armature for improved shock prevention (See col. 1, lines 23-29).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".
Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Arlington, VA 22314

Art Unit: 2646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SINH TRAN
SUPERVISORY PATENT EXAMINER

BKE

January 23, 2006